

## FAQs about enforcement survey/inspection of business premises

Q : What is the objective/purpose of conducting Survey ?

Ans: Surveys are conducted to verify whether all transactions being made by a dealer are being faithfully reported by the dealer and whether due tax is being deposited on all such transactions. Under section 59 of the DVAT Act, 2004, all records, books of accounts and other documents maintained by a dealer, transporter are at **all reasonable times** open for inspection of the competent authority. Under Section 60(1), all goods kept at the business premises of the dealer, transporter at **all reasonable times** are open to inspection by the competent authority. Further under section 60(2), where the competent authority upon information in his possession or otherwise has reasonable grounds to believe that **any person or dealer is attempting to avoid or evade tax or is concealing his tax liability in any manner**, then for the purposes of proper realization of tax dues, the competent authority can enter, search, seize and seal the business premises of the dealer.

Q : What are the basis/criteria for selection of dealers for Survey ?

Ans: Dealers are selected for survey on the basis of complaints, market inputs, reference from other Government departments, cross verification of sale and purchase, references from other States and other system generated parameters. The Department gives a great weightage to targeting dealers based on their risk profile as judged from their own returns through a computer software. The above parameters are only illustrative and not exhaustive.

Q : What is the reasonable time for the Enforcement Team to enter the business premises for survey ?

Ans: Enforcement Teams have been directed to enter the business premises of the dealer not later than 2.00 PM during winters and 3.00 PM during summer. However, the Joint Commissioner (Enforcement) and other senior officers if so required, can direct the Enforcement Team to enter the business premises of any dealer at all reasonable times. Enforcement teams have been directed to complete the survey in a reasonable time so as to avoid unnecessary harassment to the dealer.

Q: Is the dealer entitled for relief in penalty, if tax deficiency is declared voluntarily by the dealer during survey ?

Ans: Yes. The dealer under section 87(9) of the DVAT Act, 2004, is entitled to relief in penalty of 80%, if tax deficiency is voluntarily disclosed by the dealer during the survey and paid up Government Treasury within 3 working days of the conclusion of the enforcement survey.

Q : What are the basic documents which should be readily available with a dealer and for which period ?

Ans: Books of Accounts as prescribed under Rule 42 of DVAT Rules, 2005 viz. Sale/Purchase Invoices, DVAT 30 & 31, documents in support of movement of goods i.e. GR/RR, returns filed, copy of balance sheet, cash book, stock register etc. Though books of accounts for last four years should be kept at the business premises, however, during survey, the dealer should at least produce books of accounts for the last financial year and the current financial year.

Q : Under what circumstances the business premises of a dealer can be sealed during Survey ?

Ans: Some of the guiding principles of sealing are detailed below :

- i. Dealer fails to produce books of accounts, which are legally required to be kept, within the reasonable time i.e. say within two hours of service of notice. However, if the dealer requests more time and justifies his request the same is normally allowed by the surveying team.
- ii. Dealer does not cooperate with the inspecting team and tries to frustrate the attempts of surveying team.
- iii. Dealer does not allow the team to conduct survey.
- iv. Survey cannot be completed and needs to be further continued.
- v. No authorized representative is present to sign the seizure memo drawn out by the surveying team.
- vi. Any extraordinary contingency arises of Survey.

Q : What is the process of finalization of Survey ?

Ans: After survey, the Enforcement Team prepares Preliminary Report and submits the same to the Joint Commissioner (Enf.)/Spl.Commissioner(Enf.). On the basis of the survey findings and the preliminary analysis, the dealer is called for assessment under section 32 of the DVAT Act and demand on account of tax deficiency, interest and penalty is created.

Q : What safeguards are taken to prevent harassment of dealers ?

Ans:

- i. Survey team to normally enter business premises before 3.00 PM.
- ii. Each member of survey team carries his Identity Card which can be checked,if need arises.
- iii. The survey team would carry a deployment order for the dealer's premises. The deployment order would indicate brief reasons for undertaking survey.
- iv. The survey team would exhibit due courtesies and decorum during survey.
- v. If any misbehavior or excess, dealer may call Shri Ashish Mohan, Joint Commr. (Enforcement) at Telephone No.23319470 or Dr.Mrinalini Darswal, Special Commissioner (Enforcement) at Tel.No.23312079. The dealer could meet Shri Ashish Mohan, Jt.Commissioner (Enf.) at 12<sup>th</sup> floor, Deptt.of Trade & Taxes,Vyapar Bhawan, I.P.Estate, New Delhi or Dr.Mrinalini Darswal, SpecialCommissioner (Enf.) at 3<sup>rd</sup> Floor, Deptt.of Trade & Taxes, Vyapar Bhawan,I.P.Estate, New Delhi during 12 Noon to 1.00 PM on next working day.
- vi. Any suggestions are also welcome.